IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

Crl.MC.No. 2100 of 2003()

CC.325/1999 of JUDL.MAGISTRATE OF FIRST CLASS, PALA

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PETITIONER: ACCUSED

K.S.MOHANAN, KOTTERIYIL HOUSE,
PALA P.O., KOTTAYAM DISTRICT.

BY ADV. SRI.C.K.MOHANAN

RESPONDENTS: COMPLAINANT

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1. SALIM T.M., GEETHANJALI HOUSE,
ARUNAPURAM P.O., PALAI.

2. DIRECTOR OF PUBLIC PROSECUTION,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.VAKKOM N.VIJAYAN
SMT.VINITHA PRASANNAN
SMT.RAGAM.K.P.
PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 25/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl.M.C. No. 2100 OF 2003 B

Dated this the 25th day of June, 2007

O R D E R

In this petition filed under section 482 Cr.P.C., the petitioner, who is the accused in C.C.No.325/1999 on the file of the JFCM, Pala for an offence punishable under section 138 of the Negotiable Instruments Act, 1881, challenges the order passed by the said court refusing to re-open the case so as to enable the petitioner to cross-examine the complainant who was examined in chief.

2. I heard both sides.

3. The 1st respondent complainant was examined in chief on 19.3.2001. On that day, due to the inconvenience of the counsel for the accused a request was made to adjourn the cross-examination of the complainant to another date. That petition was dismissed by the Magistrate and the complainant's evidence was closed without affording an opportunity to the accused to cross-examine the complainant. It is at this stage that the petitioner has filed this petition.

4. After hearing both sides, I do not think that the order passed by the Magistrate refusing the request of the petitioner to re-open the case in order to enable him to cross-examine the complainant, can be sustained. The said order is accordingly set aside. C.C.No.325/1999 will stand restored to file and shall be disposed of by the Magistrate after giving the petitioner an opportunity to cross-examine the complainant, unless the matter is, in the meanwhile, settled by the parties.

This petition is allowed and disposed of as above.

(V. RAMKUMAR, JUDGE)

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V. RAMKUMAR, J.

Crl.M.C. No. 2100 OF 2003 B

O R D E R

25th day of June, 2007